

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>In Re:</b>  <b>W.R. GRACE &amp; CO., et al.,</b>  <b>Debtors.</b>	<b>§</b> <b>§</b> <b>§</b> <b>§</b> <b>§</b> <b>§</b>	<b>Chapter 11</b>  <b>Jointly Administered</b> <b>Case No. 01-01139 (JKF)</b>
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**FEE AUDITOR'S FINAL REPORT REGARDING  
FEE APPLICATION OF CAPLIN & DRYSDALE, CHARTERED,  
FOR THE THIRTY-FIRST INTERIM PERIOD**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Fee Application of Caplin & Drysdale, Chartered, for the Thirty-First Interim Period (the "Application").

**BACKGROUND**

1. Caplin & Drysdale, Chartered ("Caplin & Drysdale"), was retained as national counsel to the Official Committee of Asbestos Personal Injury Claimants. In the Application, Caplin & Drysdale seeks approval of fees totaling \$730,454.25 and expenses totaling \$31,457.56 for its services from October 1, 2008 through December 31, 2008 (the "Application Period").
2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2008, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under

11 U.S.C. §330, Issued January 30, 1996 (the "U.S. Trustee Guidelines"), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. We served an initial report on Caplin & Drysdale based upon our review, and we received a response from Caplin & Drysdale, portions of which response are quoted herein.

### **DISCUSSION**

3. In our initial report, we noted the following meal expenses for which more information was needed:

Peter Van N. Lockwood Travel to Pittsburgh, PA for Hearing	10/29/2008	113.50
PVNL; Travel expenses to Pittsburgh for hearing on 11/13-14 for room service	11/19/2008	86.11
Nathan D. Finch meals while on travel to Pittsburgh, PA, re: Attend Court Hearing, 12/15/08	12/17/2008	75.23
Jeffrey A. Liesemer Meals while on travel to NYC, re: Plan Mtgs., 9/15/08 - 9/16/08	12/24/2008	117.22
Jeffrey A. Liesemer Meals while on travel to Pittsburgh, PA, re: Grace Hearing, 11/13/08 - 11/14/08	12/31/2008	86.74

In response to our inquiry, Caplin & Drysdale provided the following information:

<u>Attorney</u>	<u>Date</u>	<u>Expense</u>	<u>Breakdown</u>
Peter Van N. Lockwood	10/29/08	\$113.50	10/26 - Dinner for 1 (\$62.55); 10/27 - Dinner for 1 (\$50.95)
Peter Van N. Lockwood	11/19/08	\$86.11	11/13 - Dinner for 1 (\$86.11)

<u>Attorney</u>	<u>Date</u>	<u>Expense</u>	<u>Breakdown</u>
Nathan D. Finch	12/17/08	\$75.23	12/15 - Breakfast for 1 (\$6.14); Dinner for 1 (\$17.77); Snacks & Beverages for 3 (\$51.32)
Jeffrey A. Liesemer	12/24/08	\$117.22	9/15/08 - Dinner for 1 (\$63.74); 9/16/08 - Breakfast for 1 (\$45.98); 9/16/08 - Beverages for 1 (\$7.50)
Jeffrey A. Liesemer	12/31/08	\$86.74	11/13 - Dinner for 1 (\$58.47) 11/14 - Breakfast for 1 (\$28.27)

It appears to us that one can dine satisfactorily in most locales for \$25 for breakfast, \$35 for lunch, and \$55 for dinner, and in New York City for \$35 for breakfast, \$45 for lunch, and \$65 for dinner. Based upon these guidelines, we accept Caplin & Drysdale's response, except with respect to the following charges:

\$62.55 for dinner for one in Pittsburgh	Reduce by \$7.55
\$86.11 for dinner for one in Pittsburgh	Reduce by \$31.11
\$45.98 for breakfast for one in NYC	Reduce by \$10.98
\$58.47 for dinner for one in Pittsburgh	Reduce by \$3.47
\$28.27 for breakfast for one in Pittsburgh	Reduce by \$3.27

Thus, for all items in this paragraph, we recommend a reduction of \$56.38 in expenses.

4. In our initial report, we noted the following expense for which more information was needed:

Motley Rice LLC - Refund Committee Member (APB) 12/2/2008 1,577.46

In response to our inquiry, Caplin & Drysdale provided the following information concerning this

expense:

You request in paragraph 5 of the Initial Report additional information about the refund of \$1,577.46, entered on December 2, 2008, to Motley Rice LLC. This amount was reimbursement for a Committee member's expense charged by Motley Rice. Therefore, Caplin & Drysdale sent a check in this amount to Motley Rice.

In response to our follow-up inquiry, Caplin & Drysdale provided supporting documentation for the expense from Motley Rice and stated as follows:

This charge...was submitted by the Committee to its local counsel, for reimbursement by the Debtor, on April 29, 2008. Our understanding is that the reimbursement was outstanding until included in the payment to Caplin & Drysdale. We identified that payment as a Motley Rice reimbursement and forwarded \$1,577.46 to Motley Rice.

We understand from Caplin & Drysdale's response that it received payment of the \$1,577.46 expense from the Debtor by mistake and, accordingly, sent a payment of \$1,577.46 to Motley Rice. We note from the documentation provided that this \$1,577.46 expense had previously been sought by the Committee in its Twenty-Ninth Interim expense application<sup>1</sup> and this expense was approved by the Court in its Order Approving Quarterly Fee Applications for the Twenty-Ninth Interim Period, entered on December 17, 2008 (Docket No. 20283). Because the Court has previously approved the expense, it need not be approved a second time, and thus should not be a part of Caplin & Drysdale's fee application. For this reason, we recommend that this expense of \$1,577.46 be deducted from Caplin & Drysdale's fee application.

## CONCLUSION

5. Thus, we recommend approval of \$730,454.25 in fees and \$29,823.72 in expenses

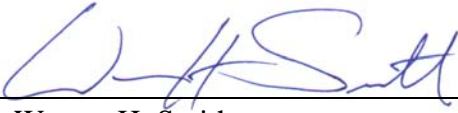
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<sup>1</sup>We previously recommended approval of the \$1,577.46 expense in the Fee Auditor's Combined Final Report Regarding Those Fee Applications with No Fee or Expense Issues for the Twenty-Ninth Interim Period, ¶¶ 22 and 35.

(\$31,457.56 minus \$1,633.84) for Caplin & Drysdale's services for the Application Period.

Respectfully submitted,

**WARREN H. SMITH & ASSOCIATES, P.C.**


By:   
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**FEE AUDITOR**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 10<sup>th</sup> day of June, 2009.

  
Warren H. Smith

**SERVICE LIST**

Notice Parties

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